

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

LOUIS ORTEGA and LEE BENSON,

Defendants.

8:16CR77

ORDER

Defendant Benson has moved to continue the trial currently set for November 7, 2016. (Filing No. 68). As explained in the motion, Defendant is not available during the current trial setting. The motion to continue is unopposed. Based on the showing set forth in the motion, the court finds the motion should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant Benson's motion to continue, (Filing No. 68), is granted.
- 2) **As to both defendants**, the trial of this case is set to commence before the Honorable John M. Gerrard, United States District Judge, in the Special Proceedings Courtroom of the United States Courthouse, Omaha, Nebraska, at 9:00 a.m. on January 23, 2017, or as soon thereafter as the case may be called, for a duration of five (5) trial days. Jury selection will be held at commencement of trial.
- 3) Based upon the showing set forth in Defendant's motion and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of Defendant and the public in a speedy trial. Accordingly, **as to both defendants**, the additional time arising as a result of the granting of the motion, the time between today's date and January 23, 2017, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because although counsel have been duly diligent, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1), (h)(6) & (h)(7). Failing to object to this order as provided under the court's local rules will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.

November 1, 2016.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge